

## **2005 DRAFTING REQUEST**

### **Bill**

Received: **11/05/2004**

Received By: **jkuesel**

Wanted: **As time permits**

Identical to LRB:

For: **Marlin Schneider (608) 266-0215**

By/Representing: **him**

This file may be shown to any legislator: **NO**

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Public Records**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Schneider@legis.state.wi.us**

Carbon copy (CC:) to:

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### **Pre Topic:**

No specific pre topic given

---

### **Topic:**

Prohibit access to social security numbers in public records

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### **Instructions:**

Per 2003 LRB-0897/1.

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### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 11/12/2004	wjackson 12/04/2004		_____			
/1			rschluet 12/06/2004	_____	lemery 12/06/2004	lnorthro 12/06/2004	
/2	jkuesel 02/04/2005	wjackson 02/04/2005	pgreensl 02/04/2005	_____	mbarman 02/04/2005	mbarman 02/04/2005	

FE Sent For:

*none  
needed*

**<END>**

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/?	jkuesel 11/12/2004	wjackson 12/04/2004	<i>7/4 ps</i>	<i>7/4</i>			
/1	<i>12 jkuesel 2/1</i>	<i>12 wj 2/1</i>	rschluet 12/06/2004	<i>ps 1/9</i>	lemery 12/06/2004	Inorthro 12/06/2004	

***LRB-0656***

12/06/2004 11:21:00 AM

Page 2

FE Sent For:

<END>

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1/2 /1	jkuesel	11/12	1WJ	12/4			
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FE Sent For:

<END>



2003 BILL

LPS: Please  
PWF

Regen

- 1 AN ACT *to renumber* 19.37 (4); *to amend* 59.20 (3) (d); and *to create* 19.36 (10)  
2 and 19.37 (4) (b) and (c) of the statutes; **relating to:** access to certain public  
3 records containing social security account numbers of individuals and  
4 providing penalties.

---

***Analysis by the Legislative Reference Bureau***

Currently, the custodian of the records of any state or local governmental unit must provide access to any public record in his or her custody unless otherwise authorized or required by law or unless the custodian demonstrates that the public interest in withholding access to the record outweighs the strong public interest in providing access to that record. Federal law prohibits state and local governmental units from disclosing social security numbers under certain conditions.

This bill provides that, if a new record containing the social security number of an individual, together with information revealing the identity of that individual, is kept by a state or local governmental unit on or after January 1, 2005, or if a record in the custody of a state or local governmental unit is modified to insert the social security number of an individual on or after January 1, 2005, and the record contains information revealing the identity of that individual, the custodian of the record must delete the social security number before permitting access to the record, unless the person who requests access to the record is specifically authorized by federal or state law to have access to the social security number.

The bill, however, permits the requester of a record to have access to the social security number of an individual if:

^ unless otherwise restricted by law ^

**BILL**

1. The record pertains to that individual alone, to the marital or parental rights or responsibilities of that individual and his or her spouse or former spouse, to the property of that individual held jointly or in common with one or more other individuals, or to a civil lawsuit in which the individual is a specifically named party, and the individual provides appropriate identification; or

2. The requester is an authorized representative of an insurer or an organization that performs investigations for insurers and the social security number is relevant to an investigation of suspected, anticipated, or actual insurance fraud.

The bill also provides that, if any person misrepresents his or her identity for the purpose of obtaining access to the social security number of another individual, the person is subject to a forfeiture (civil penalty) of not more than \$1,000 for each social security number obtained by means of misrepresentation. In addition, under the bill, if any insurer or other person obtains a social security number and uses that number for purposes other than an investigation of suspected, anticipated, or actual insurance fraud, the person is subject to a forfeiture of not more than \$1,000 for each social security number used by the person for unauthorized purposes.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 19.36 <sup>(13)</sup>~~(10)~~ of the statutes is created to read:

2           19.36 <sup>(13)</sup>~~(10)~~ SOCIAL SECURITY ACCOUNT NUMBERS. (a) Except as provided in par.

3           (b), if a new record containing a social security account number of an individual,  
4           together with information revealing the identity of that individual, is kept by an  
5           authority on or after January 1, <sup>2007</sup>~~2005~~, or if a record in the custody of an authority is  
6           modified to insert the social security account number of an individual on or after  
7           January 1, <sup>2007</sup>~~2005~~, and the record contains information revealing the identity of that  
8           individual, the authority shall delete the social security account number before  
9           permitting access to the record, unless the requester is specifically authorized by  
10          federal or state law to have access to the social security account number.

11           (b) Unless otherwise provided by federal or state law, including common law  
12          principles, a requester may have access to a record containing the social security  
13          account number of an individual if any of the following applies:

**BILL**

1           1. The record pertains to that individual alone, to the marital or parental rights  
2           or responsibilities of that individual and his or her spouse or former spouse, to  
3           property of that individual held jointly or in common tenancy with one or more other  
4           individuals, or to a civil legal action or proceeding in which the individual is a  
5           specifically named party, and the individual provides appropriate identification to  
6           the custodian.

7           2. The requester is an authorized representative of an insurer or an  
8           organization that performs investigations for insurers and the social security  
9           account number is relevant to an investigation of suspected, anticipated, or actual  
10          insurance fraud.

11          **SECTION 2.** 19.37 (4) of the statutes is renumbered 19.37 (4) (a).

12          **SECTION 3.** 19.37 (4) (b) and (c) of the statutes are created to read:

13          19.37 (4) (b) If any person misrepresents his or her identity for the purpose of  
14          obtaining access to the social security account number of another individual under  
15          s. 19.36 (13) (a), the person may be required to forfeit not more than \$1,000 for each  
16          social security account number obtained by the person by means of such  
17          misrepresentation.

18          (c) If an insurer or other person obtains a social security account number under  
19          s. 19.36 (13) (b) and uses that number for purposes other than an investigation as  
20          provided in that paragraph, the person may be required to forfeit not more than  
21          \$1,000 for each social security account number used by the person for such  
22          unauthorized purposes.

23          **SECTION 4.** 59.20 (3) (d) of the statutes is amended to read:

24          59.20 (3) (d) Any register of deeds who in good faith makes an erroneous  
25          determination as to the accessibility of a portion of a record, to members of the public

**BILL**

**SECTION 4**

1 under s. 19.36 (6), is not subject to any penalty for denial of access to the record under  
2 s. 19.37 (4) (a).

3 (END)

**Northrop, Lori**

---

**From:** Schneider, Marlin  
**Sent:** Monday, December 06, 2004 11:16 AM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-0656/1 Topic: Prohibit access to social security numbers in public records

It has been requested by <Schneider, Marlin> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-0656/1 Topic: Prohibit access to social security numbers in public records

## Kuesel, Jeffery

---

**To:** Schneider, Marlin  
**Subject:** RE: Submitted: LRB 05-0661/2 Topic: Personal information on state and local government Web sites prohibited=

Marlin,

I will combine the drafts.  
Jeff Kuesel

-----Original Message-----

**From:** Schneider, Marlin  
**Sent:** Tuesday, December 21, 2004 9:00 AM  
**To:** Kuesel, Jeffery  
**Subject:** RE: Submitted: LRB 05-0661/2 Topic: Personal information on state and local government Web sites prohibited=

I think I like the idea of combining the drafts and let the committee sort it out if it ever even gets a hearing. Thank you.

-----Original Message-----

**From:** Kuesel, Jeffery  
**Sent:** Monday, December 20, 2004 3:42 PM  
**To:** Schneider, Marlin  
**Subject:** RE: Submitted: LRB 05-0661/2 Topic: Personal information on state and local government Web sites prohibited=

Marlin,

LRB-0656/1 is based upon some older legislation that you worked on with Sen. Erpenbach, I believe. In that draft, you accepted some limitations in response to objections from the registers of deeds, trial lawyers and insurance companies, so that the draft only applies to records that are created or modified to include social security numbers on or after 1/1/07 and there are exceptions for those who are involved in civil litigation with the subject individual and insurance investigators. LRB-0656/1 also provides a penalty for misrepresenting identity or using false pretenses to obtain SS# information. Unlike LRB-0661/2, LRB-0656/1 does not deal with internal restrictions on circulation of SS# information within a state or local agency or the release of SS# information by a private employer.

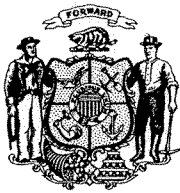
One way to reconcile these drafts would be to move all the material relating to non-Internet access to SS#s into LRB-656 and keep the limitations. LRB-0661 would then relate only to Internet postings. Another way would be to combine the drafts into one draft.

Jeff Kuesel

-----Original Message-----

**From:** Schneider, Marlin  
**Sent:** Monday, December 20, 2004 11:19 AM  
**To:** Kuesel, Jeffery  
**Subject:** Submitted: LRB 05-0661/2 Topic: Personal information on state and local government Web sites prohibited?body=

Please advise as to the difference between the treatment of Social Security numbers between the two drafts that you mention. Thanks. - Marlin



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-0656/1 2

JTK:wlj:rs

LGMM

Wanted by FBI 1/4

2005 BILL

- 1 AN ACT <sup>(regenerate)</sup> ~~to renumber 19.37 (4); to amend 59.20 (3) (d); and to create 19.36 (13)~~  
2 ~~and 19.37 (4) (b) and (c) of the statutes; relating to:~~ <sup>posting of certain personal information in government records on the</sup> access to certain public <sup>the</sup>  
3 records containing <sup>the</sup> social security account numbers of individuals and <sup>Internet</sup>  
4 providing penalties. <sup>and</sup>

*Analysis by the Legislative Reference Bureau*

Currently, the custodian of the records of any state or local governmental unit must provide access to any public record in his or her custody unless otherwise authorized or required by law or unless the custodian demonstrates that the public interest in withholding access to the record outweighs the strong public interest in providing access to that record. Federal law prohibits state and local governmental units from disclosing social security numbers under certain conditions.

This bill provides that, if a new record containing the social security number of an individual, together with information revealing the identity of that individual, is kept by a state or local governmental unit on or after January 1, 2007, or if a record in the custody of a state or local governmental unit is modified to insert the social security number of an individual on or after January 1, 2007, and the record contains information revealing the identity of that individual, the custodian of the record must delete the social security number before permitting access to the record, unless the person who requests access to the record is specifically authorized by federal or state law to have access to the social security number.

The bill, however, permits the requester of a record to have access to the social security number of an individual, unless otherwise restricted by law, if:

FWS B

or by  
the  
subject  
individual

by  
any  
person  
other  
than  
an  
officer  
or  
employee  
of  
the  
government  
unit

**BILL**

1. The record pertains to that individual alone, to the marital or parental rights or responsibilities of that individual and his or her spouse or former spouse, to the property of that individual held jointly or in common with one or more other individuals, or to a civil lawsuit in which the individual is a specifically named party, and the individual provides appropriate identification; or

2. The requester is an authorized representative of an insurer or an organization that performs investigations for insurers and the social security number is relevant to an investigation of suspected, anticipated, or actual insurance fraud.

The bill also provides that, if any person misrepresents his or her identity for the purpose of obtaining access to the social security number of another individual, the person is subject to a forfeiture (civil penalty) of not more than \$1,000 for each social security number obtained by means of misrepresentation. In addition, under the bill, if any insurer or other person obtains a social security number and uses that number for purposes other than an investigation of suspected, anticipated, or actual insurance fraud, the person is subject to a forfeiture of not more than \$1,000 for each social security number used by the person for unauthorized purposes.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 19.36 (19) of the statutes is created to read:

**19.36 (13) SOCIAL SECURITY ACCOUNT NUMBERS.** (a) Except as provided in par.

(b), if a new record containing a social security account number of an individual, together with information revealing the identity of that individual, is kept by an authority on or after January 1, 2007, or if a record in the custody of an authority is modified to insert the social security account number of an individual on or after January 1, 2007, and the record contains information revealing the identity of that individual, the authority shall delete the social security account number before permitting access to the record, unless the requester is specifically authorized by federal or state law to have access to the social security account number.

(c) Unless otherwise provided by federal or state law, including common law principles, a requester may have access to a record containing the social security account number of an individual if any of the following applies:



**BILL**

1           1. The record pertains to that individual alone, to the marital or parental rights  
2           or responsibilities of that individual and his or her spouse or former spouse, to  
3           property of that individual held jointly or in common tenancy with one or more other  
4           individuals, or to a civil legal action or proceeding in which the individual is a  
5           specifically named party, and the individual provides appropriate identification to  
6           the custodian.

7           2. The requester is an authorized representative of an insurer or an  
8           organization that performs investigations for insurers and the social security  
9           account number is relevant to an investigation of suspected, anticipated, or actual  
10          insurance fraud.

11          SECTION 2. 19.37 (4) of the statutes is renumbered 19.37 (4) (a).

12          SECTION 3. 19.37 (4) (b) and (c) of the statutes are created to read:

13           19.37 (4) (b) If any person misrepresents his or her identity for the purpose of  
14           obtaining access to the social security account number of another individual under  
15           s. 19.36 (13) (a), the person may be required to forfeit not more than \$1,000 for each  
16           social security account number obtained by the person by means of such  
17           misrepresentation.

18           (c) If an insurer or other person obtains a social security account number under  
19           s. 19.36 (13) (b) and uses that number for purposes other than an investigation as  
20           provided in that paragraph, the person may be required to forfeit not more than  
21           \$1,000 for each social security account number used by the person for such  
22           unauthorized purposes.

23          SECTION 4. 59.20 (3) (d) of the statutes is amended to read:

24           59.20 (3) (d) Any register of deeds who in good faith makes an erroneous  
25           determination as to the accessibility of a portion of a record, to members of the public

PWS  
3-10

**BILL**

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1 under s. 19.36 (6), is not subject to any penalty for denial of access to the record under  
2 s. 19.37 (4) (a).

(END)

INS  
4-2  
3



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-0661/2

JTK:jld:ch

2005 BILL

1 AN ACT *to create* 19.36 (10m), 19.36 (13) and 103.135 of the statutes; **relating**  
2 **to:** posting of certain personal information in governmental records on the  
3 Internet and access to records containing the social security account numbers  
4 of individuals.

*Analysis by the Legislative Reference Bureau*

This bill provides that no state or local government officer or agency that maintains an Internet site may post on that site any public record containing the name of an individual together with any of the following information relating to that individual: a) the individual's birthdate; b) the number of a driver's license issued to the individual by the Department of Transportation; c) the social security number of the individual; d) the telephone number at the individual's place of employment; and e) the unpublished home telephone number of the individual. The prohibition does not apply to publication or electronic posting of a telephone number at an individual's place of employment by a governmental unit that is the employer of the individual. In addition, the prohibition does not apply to the posting of information that is required to be provided as a part of the sex offender registry program.

Currently, state and local government officers and agencies may post information in public records on the Internet unless access to that information is required to be withheld by law.

Currently, the custodian of the records of any state or local governmental unit must provide access to any public record in his or her custody unless otherwise authorized or required by law or unless the custodian demonstrates that the public

**BILL**

interest in withholding access to that record outweighs the strong public interest in providing access to that record. Federal law prohibits state and local governmental units from disclosing social security numbers in certain situations.

This bill provides that no state or local governmental unit may provide access to any public record that contains the social security number of an individual together with information revealing the identity of that individual to any person other than an officer or employee of the governmental unit, unless the number is redacted or unless the person is authorized by federal or state law or by the subject individual to have access to the number. The bill also provides that no state or local governmental unit may provide access to any record that contains the social security number of an individual together with information revealing the identity of that individual to any officer or employee of the unit other than the custodian of the record or an employee working under the immediate supervision of the custodian unless the officer's or employee's official responsibilities require the officer or employee to have access to the number or the officer or employee is authorized by the subject individual to have access to the number.

In addition, the bill prohibits an employer from providing access to any record that contains the social security number of an employee together with information revealing the identity of that employee to any person unless the number is redacted; the person is authorized by federal or state law or by the employee who is the subject of the record to have access to the number; or the person is an officer, employee, or agent of the employer and his or her official responsibilities require him or her to have access to the number.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

END INSERT C

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 19.36 (10m) of the statutes is created to read:

19.36 (10m) RECORDS CONTAINING SOCIAL SECURITY NUMBERS. (a) In this

subsection, "employee" includes an individual holding a local public office or a state public office.

(b) No authority may provide access under s. 19.35 (1) to any record that contains the social security account number of an individual together with information revealing the identity of that individual to any person other than an officer or employee of the authority unless the number is redacted or unless the

**BILL**

1 person is authorized by federal or state law or by the record subject to have access  
2 to the number.

3 ~~(d) No~~ No authority may provide access under s. 19.35 (1) to any record that  
4 contains the social security account number of an individual together with  
5 information revealing the identity of that individual to any officer or employee of the  
6 authority other than the legal custodian or an employee working under the  
7 immediate supervision of the custodian ~~unless the number is redacted or unless the~~  
8 officer's or employee's official responsibilities require the officer or employee to have  
9 access to the number or the officer or employee is authorized by the record subject  
10 to have access to the number.

11 ~~SECTION 2.~~ 19.36 (13) of the statutes is created to read:

12 19.36 (13) ACCESS TO CERTAIN RECORDS ON INTERNET SITES. (a) Except as provided  
13 in par. (b), no authority that maintains an Internet site may post on that site any  
14 record containing the name of an individual together with any of the following  
15 information pertaining to that individual:

16 1. The individual's birth date.

17 2. The number of an operator's license issued to the individual under ch. 343.

18 3. The social security ~~number~~ of the individual.

19 4. Except as provided in par. (b), the telephone number at the individual's place  
20 of employment.

21 5. The unpublished home telephone number of the individual.

22 (b) This subsection does not apply to any of the following:

23 1. The publication or electronic posting of the telephone number at an  
24 individual's place of employment by an authority that is the employer of the  
25 individual.

## BILL

2. The posting of any information that is required to be provided under s. 301.45

(2).

SECTION 103.135 of the statutes is created to read:

**103.135 Records containing social security numbers of employees. (1)**

DEFINITION. In this section, "officer" means an officer of a governmental body, an officer or director of a corporation, a member or manager of a limited liability company, a partner of a partnership or a joint venture, or an owner of a sole proprietorship.

(2) ACCESS PROHIBITED; EXCEPTIONS. No employer may provide access to any record that contains the social security account number of an employee together with information revealing the identity of that employee to any person unless any of the following applies:

(a) The number is redacted.

(b) The person is authorized by federal or state law or by the employee who is the subject of the record to have access to the number.

(c) The person is an officer, employee, or agent of the employer and the official responsibilities of the officer, employee, or agent require him or her to have access to the number.

(END)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0656/2dn  
JTK.....

Rep. Schneider:

Per your request of December 21, 2004, this draft incorporates LRB-0661/2 into LRB-0656/1.

Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266-6778

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0656/2dn  
JTK:wlj:pg

February 4, 2005

Rep. Schneider:

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Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266-6778